

# Exhibit C

Materials Received and/or Relied Upon

**Legal Documents and Pleadings**

Operative Complaint, Amended Consolidated Class Action Complaint for Damages and

Injunctive Relief, October 31, 2016.

*Khoday v. Symantec Corp.*, 2014 WL 1281600, at \*10 (D. Minn. March 13, 2014)

*Sanchez-Knutson v. Ford Motor Company*, 310 F.R.D. 529, 538-39 (S.D. Fl. 2015)

*In re: Lenovo Adware Litigation*, 2016 WL 6277245, at \*21 (N.D. Cal. Oct. 27, 2016)

*Guido v. L'Oreal, USA, Inc.*, 2014 WL 6603730, at \*5, \*10-\*14 (C.D. Cal. July 24, 2014)

*Brown v. Hain Celestial Group, Inc.*, 2014 WL 6483216, at \*19 (N.D. Cal. Nov. 18, 2014)

*Microsoft v. Motorola, Inc.*, 904 F.Supp.2d 1109, 1119-20 (W.D. Wa. 2012)

*In re Scotts EZ Seed Litig.*, 304 F.R.D. 397, 413-15 (S.D.N.Y. 2015)

*Dzielak v. Maytag*, 2017 WL 1034197, at \*6 (D. NJ. March 17, 2017)

*TV Interactive Data Corp. v. Sony Corp.*, 929 F. Supp. 2d 1006, 1022 & n.6 (N.D. Cal. 2013)

*Briseno v. ConAgra Foods, Inc.*, 844 F.3d 1121 (9th Cir. 2017)

*Fitzhenry-Russell v. Dr Pepper Snapple Group, Inc.*, 2018 WL 3126385 (N.D. Cal. June 26, 2018)

*In Re Arris Cable Modem Consumer Litig.*, 2018 WL 3820619, at \*25-\*31 (N.D. Cal. Aug. 10, 2018)

*Hadley v. Kellogg Sales Co.*, 2018 WL 3954587, at \*11-\*16 (N.D. Cal. Aug. 17, 2018)

*Martinelli v. Johnson & Johnson*, 2019 WL 1429653, at \*3-4 (E.D. Cal. Mar. 29, 2019)

**Articles, Books, and Reports**

- Adalja, A.A., 2018. The Impact of Voluntary Non-GMO Labeling on Demand in the Ready-to-Eat Cereal Industry. In 2018 Annual Meeting, August 5-7, Washington, DC (No. 273817). *Agricultural and Applied Economics Association*.
- Amos, C., Pentina, I., Hawkins, T.G. and Davis, N., 2014. “Natural” labeling and consumers’ sentimental pastoral notion. *Journal of Product & Brand Management*, 23(4/5): 268-281.
- Anstine, J., 2007. Organic and all natural: Do consumers know the difference? *Journal of Applied Economics & Policy*, 26(1):15-27.
- Berry, S. T, 1994. Estimating Discrete-Choice Models of Product Differentiation. *The RAND Journal of Economics* 25(2): 242-262.
- Berry, S., J. Levinsohn, and A.Pakes, 1995. Automobile Prices in Market Equilibrium. *Econometrica* 63(4), pp. 841-890.
- Bonanno, A., 2016. A hedonic valuation of health and nonhealth attributes in the US yogurt market. *Agribusiness*, 32(3): 299-313.
- Bucklin, R.E. and Gupta, S., 1992. Brand choice, purchase incidence, and segmentation: An integrated modeling approach. *Journal of Marketing Research*, 29(2), pp.201-215.
- Bukenya, J.O. and Wright, N.R., 2007. Determinants of consumer attitudes and purchase intentions with regard to genetically modified tomatoes. *Agribusiness: An International Journal*, 23(1), pp.117-130.
- Case, Fair & Oster, *Principles of Microeconomics*, 12th Edition, Pearson 2017, at 305-316.
- Chambers, E., Chambers, E., and Castro, M., 2018. What is “natural”? Consumer responses to selected ingredients. *Foods*, 7(4), p.65.

- Chintagunta, P.K., 1993. Investigating purchase incidence, brand choice and purchase quantity decisions of households. *Marketing Science*, 12(2), pp.184-208.
- Gardner, S., 1993. “Consumers and food safety: A food industry perspective.” In *Food, Nutrition and Agriculture—8/9—Consumer participation in food control*. Food and Agriculture Organization of the United Nations, accessed September 26, 2019 at <http://www.fao.org/docrep/v2890t/v2890t05.htm>
- Greene, C., Dimitri, C., Lin, B.-H., McBride, W., Oberholtzer, L., and Smith, T., 2009. Emerging issues in the U.S. Organic Industry. *Economic Research Service/USDA EIB 55* (2009): 1-18.
- Greene, C. and Calvin, L., 1997. ‘Organically grown’ vegetables: U.S. acreage and markets expand during the 1990s, *USDA Economic Research Service Vegetables and Specialties Situation and Outlook, Special Article VGS-271*: 27-28.
- Green, P.E., Krieger, A.M. and Wind, Y., 2001. Thirty years of conjoint analysis: Reflections and prospects. *Interfaces*, 31(3\_supplement): S56-S73.
- Hamilton, S., D. Sunding, and D. Zilberman. 2003. Public goods and the value of product quality regulations: The case of food safety. *Journal of Public Economics* 87: 799-817.
- Harris Interactive. *The Impact of Labelling on Consumer Choice*, at p 4, accessed November 23, 2019, at [https://www.fdf.org.uk/speeches/bccc11\\_gerardine\\_padbury.pdf](https://www.fdf.org.uk/speeches/bccc11_gerardine_padbury.pdf).
- Huffman, W.E. 2010. Consumer acceptance of genetically modified foods: Traits, labels and diverse information (Staff General Research Papers). Ames: Iowa State University, Department of Economics (10029).
- Johnson, J. P. and Myatt, D.P. 2006. On the Simple Economics of Advertising, Marketing, and Product Design, *American Economic Review* 96(3): 756–784.

- Lancaster, Kelvin. "A New Approach to Consumer Theory," *The Journal of Political Economy* 74, no. 2 (1966): 132-157.
- Lin, B.H., Smith, T.A. and Huang, C.L., 2008. Organic premiums of US fresh produce. *Renewable Agriculture and Food Systems*, 23(3): 208-216.
- Liaukonyte, J., N. A. Streletskaya, and H. M. Kaiser, 2015. Noisy Information Signals and Endogenous Preferences for Labeled Attributes," *Journal of Agricultural and Resource Economics* 40(2): 179-202.
- Lusk, J.L. and Fox, J.A., 2002. Consumer demand for mandatory labeling of beef from cattle administered growth hormones or fed genetically modified corn. *Journal of Agricultural and Applied Economics*, 34(1): 27-38.
- Lusk, J.L., Jamal, M., Kurlander, L., Roucan, M. and Taulman, L., 2005. A meta-analysis of genetically modified food valuation studies. *Journal of Agricultural and Resource Economics*: 28-44.
- Maguire, K.B., Owens, N. and Simon, N.B., 2004. The price premium for organic babyfood: a hedonic analysis. *Journal of Agricultural and Resource Economics*: 132-149.
- McFadden, J.R. and Huffman, W.E., 2017. Willingness-to-pay for natural, organic, and conventional foods: The effects of information and meaningful labels. *Food Policy*, 68: 214-232.
- Nevo, Aviv, 2001. Measuring Market Power in the Ready-to-Eat Cereal Industry. *Econometrica* 69(2): 307-342.
- Oberholtzer, L., Dimitri, C. and Greene, C., 2005. *Price premiums hold on as US organic produce market expands*. Washington (DC): US Department of Agriculture, Economic Research Service.

- Onyango, B., Nayga, R.M. and Govindasamy, R., 2006. US Consumers' Willingness to Pay for Food Labeled 'Genetically Modified'. *Agricultural and Resource Economics Review*, 35(2): 299-310.
- Richards, T.J., Allender, W.J. and Hamilton, S.F., 2012. Commodity price inflation, retail pass-through and market power. *International Journal of Industrial Organization*, 30(1), pp.50-57.
- Richards, T.J., Allender, W.J. and Hamilton, S.F., 2013. Rivalry in price and location by differentiated product manufacturers. *American Journal of Agricultural Economics*, 95(3), pp.650-668.
- Richards, T.J. and Hamilton, S.F., 2006. Rivalry in price and variety among supermarket retailers. *American Journal of Agricultural Economics*, 88(3), pp.710-726.
- Richards, T. and Hamilton, S.F., 2012. Network externalities in supermarket retailing. *European Review of Agricultural Economics*, 40(1), pp.1-22.
- Richards, T.J. and Hamilton, S.F., 2015. Variety pass-through: An examination of the ready-to-eat breakfast cereal market. *Review of Economics and Statistics*, 97(1), pp.166-180.
- Richards, T.J., Hamilton, S.F. and Patterson, P.M., 2010. Spatial competition and private labels. *Journal of Agricultural and Resource Economics*, pp.183-208.
- Richards, T.J., Hamilton, S.F. and Yonezawa, K., 2017. Variety and the cost of search in supermarket retailing. *Review of Industrial Organization*, 50(3), pp.263-285.
- Richards, T.J., Hamilton, S.F. and Yonezawa, K., 2018. Retail market power in a shopping basket model of supermarket competition. *Journal of Retailing*, 94(3), pp.328-342.

- Richards, T. J., and Nganje, W. 2014. Welfare Effects of Food Safety Recalls, *Canadian Journal of Agricultural Economics* 62(1): 107-124.
- Rickard, B.J., Liaukonyte, J., Kaiser, H.M. and Richards, T.J., 2011. Consumer response to commodity-specific and broad-based promotion programs for fruits and vegetables. *American Journal of Agricultural Economics*, 93(5): 1312-1327
- Rokka, J., & Uusitalo, L. 2008. Preference for green packaging in consumer product choices— Do consumers care? *International Journal of Consumer Studies*, 32(5): 516–525.
- Rosen, Sherwin. “Hedonic Prices and Implicit Markets: Product Differentiation in Pure Competition,” *Journal of Political Economy* 82, no. 1 (1974): 34-55.
- Smith, T.A., Huang, C.L. and Lin, B.H., 2009. Estimating organic premiums in the US fluid milk market. *Renewable agriculture and food systems*, 24(3): 197-204.
- Sok, E., and Glaser, L., “Tracking wholesale prices for organic produce,” *USDA, Economic Research Service Agricultural Outlook* (2001): 7-8.
- Thompson, G.D. and Kidwell, J., 1998. Explaining the choice of organic produce: cosmetic defects, prices, and consumer preferences. *American journal of agricultural economics*, 80(2): 277-287.
- US Federal Trade Commission. “Advertising FAQ’s: A Guide for Small Business.” April 2001, accessed November 25, 2019 at <https://www.ftc.gov/tips-advice/business-center/guidance/advertising-faqs-guide-small-business>.
- US Food and Drug Administration. “Use of the term natural on food labeling.” 2016, accessed on November 25, 2019 at <https://www.fda.gov/food/food-labeling-nutrition/use-term-natural-food-labeling>.

**Press Releases and Industry Reports**

Consumer Reports National Research Center. *Organic Food Labels Survey*. March, 2014, at p. 2.

Hamstra, M., How conventional groceries are chasing today's natural consumer, Natural Foods

Merchandise, July 22, 2019, accessed November 25, 2019 at

<https://www.newhope.com/market-data-and-analysis/how-conventional-groceries-are-chasing-todays-natural-consumer>.

The Nielsen Company. *Global Trust in Advertising and Brand Messages*. September 2013, at p.

10, accessed November 23, 2019, at

<https://www.nielsen.com/us/en/insights/report/2013/global-trust-in-advertising-and-brand-messages/>.

The Nielsen Company. *'Natural' Beats 'Organic' in Food Sales According to Nielsen's Healthy*

*Eating Report*. Press release, January 21, 2009, accessed November 25, 2019 at

<http://www.nielsen.com/us/en/insights/news/2009/natural-beats-organic-in-food-sales-according-to-nielsens-healthy-eating-report.html>.

NBCUniversal. "New Green is Universal Poll Reveals Green Consumerism is on the Rise, With

Two-Thirds of Consumers Willing to Pay More for Eco-Products from Brands They

Trust." Press release, April 12, 2011, accessed November 23, 2019, at

[http://www.csrwire.com/press\\_releases/31984-New-Green-is-Universal-Poll-Reveals-Green-Consumerism-is-on-the-Rise-With-Two-Thirds-of-Consumers-Willing-to-Pay-More-for-Eco-Products-from-Brands-They-Trust](http://www.csrwire.com/press_releases/31984-New-Green-is-Universal-Poll-Reveals-Green-Consumerism-is-on-the-Rise-With-Two-Thirds-of-Consumers-Willing-to-Pay-More-for-Eco-Products-from-Brands-They-Trust).

New Hope Natural Media. "NEXT: Natural Products Industry Forecast 2016 Finds Trust

Through Transparency is Driving Change Across the Natural Products Ecosystem." Press release, Oct 14, 2015, accessed November 25, 2019 at



<http://www.prnewswire.com/news-releases/next-natural-products-industry-forecast-2016-finds-trust-through-transparency-is-driving-change-across-the-natural-products-ecosystem-300159166.html>.

Watrous, Monica, “Three trends shaping children’s food industry,” Food Business News, April 1, 2016, accessed July 5, 2016 at

[http://www.foodbusinessnews.net/articles/news\\_home/Consumer\\_Trends/2016/04/Three\\_trends\\_shaping\\_childrens.aspx?ID=%7BFCB0E771-5016-42AC-9E24-F40484472229%7D](http://www.foodbusinessnews.net/articles/news_home/Consumer_Trends/2016/04/Three_trends_shaping_childrens.aspx?ID=%7BFCB0E771-5016-42AC-9E24-F40484472229%7D).

### **Websites**

KIND. “Company.” Accessed November 25, 2019 at <https://www.kindsnacks.com/promise.html>

Natural Foods Merchandizer, accessed November 25, 2019, at

<https://www.newhope.com/market-data-and-analysis/2019-market-overview-index-charts-and-analysis>

### **Data**

Mintel Group Ltd., GNPD database, accessed November 25, 2019 at

<https://www.mintel.com/global-new-products-database>

Non-GMO Project, verified products, accessed November 25, 2019 at

<https://www.nongmoproject.org/find-non-gmo/verified-products/>

**Bates Numbered Documents:**

Depo Ex. 18, KIND\_0012344

Depo Ex. 22, KIND\_0012090

Depo Ex. 23, KIND\_0009255

KIND\_0012142

KIND\_0012211

KIND\_0013212

KIND\_0017824

KIND\_0028161

KIND\_0035693.xlsx

KIND\_0035694.xlsx